

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,	)	Cr. No. 05-00189DAE
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
KEITH SEICHI IMAI, (01)	)	
	)	DECLARATION OF COUNSEL
Defendant.	)	
	)	
	)	

---

DECLARATION OF COUNSEL

1. I am the attorney for Defendant KEITH IMAI in the above-captioned case.
2. On May 26, 2005, Counsel filed a Written Request for Discovery and delivered a filed-stamped copy on the U.S. Attorney's office. On Sept. 27, 2005, Counsel filed Defendant Imai's First Motion to Compel Discovery, followed by a Supplemental Declaration of Counsel filed on Jan. 19, 2006, seeking additional discovery pertaining to Defendant's Hilo, Hawaii, property.
3. On March 8, 2006, Counsel filed Defendant Imai's Second Motion to Compel Discovery, seeking additional discovery pertaining to government confidential informants, and cooperating defendants. On March 8, 2006, Counsel also filed a Motion for Disclosure of Grand Jury Transcripts. The Court upheld the Government's objection, and found

that defendant Imai could not “demonstrate a particularized need” that “outweighs the policy of grand jury secrecy”. On Oct. 10, 2006, Counsel filed Defendant Imai’s Third Motion to Compel Discovery, again seeking disclosure of Grand Jury transcripts and other specific items identified in Defendant’s Third Motion to Compel.

4. On Oct. 30, 2006, a Final Pretrial Conference was held before the Hon. Leslie E. Kobayashi, U.S. Magistrate Judge, at which time the Court ordered the Government to produce all Brady and Giglio Material including “impeachment material, cooperation agreements, plea agreements, promises of leniency and records of criminal convictions” by “November 1, 2006”.

5. The Government, however, **did not** provide the ordered Brady and Giglio Material, (approximately 1000 pages) until late Friday November 17, 2006, when the Government provided the Jencks Act disclosure of witness statements.<sup>2</sup>

6. Counsel cannot adequately prepare for trial without the information and materials sought in Defendant’s Fourth Motion to Compel Discovery. The Government is in possession of evidence essential to the defendant’s case, including but not limited to impeachment and possible exculpatory evidence which the Government has a continuing duty to provide (as previously detailed in Defendant’s three prior Motions to Compel Discovery, Motion to Compel Identity of Confidential Sources, and Motion to Compel Grand Jury Transcripts).

---

<sup>2</sup>The parties were also ordered by Mag. Kobayashi to exchange witness lists by Nov. 1, 2006. Defendant Imai’s witness list was filed and served on Oct. 31, 2006, the Government’s witness list was not filed and served until Nov. 15, 2006. Both the Government’s witness list and Brady/Giglio material were two weeks overdue.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 11/20, 2006.

  
\_\_\_\_\_  
MYLES S. BREINER